

## PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

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### §282.53 Arkansas State-Administered Program.

(a) The State of Arkansas is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Arkansas Department of Pollution Control and Ecology, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Arkansas program on February 14, 1995 and it was effective on April 25, 1995.

(b) Arkansas has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Arkansas must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Arkansas obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the FEDERAL REGISTER.

(d) Arkansas has final approval for the following elements submitted to EPA in Arkansas' program application for final approval and approved by EPA on February 14, 1995. Copies may be obtained from the Underground Storage Tank Program, Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, AR 72219-8913.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Arkansas Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Arkansas Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not

incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) *Arkansas Code Annotated, Title 8, Chapter 1, Subchapter 1—General Provisions:*

(i) § 8-1-107 Inspections—Definitions—Investigations—Inspection Warrant—Exceptions—Penalties

(2) *Arkansas Code Annotated, Title 8, Chapter 4, Subchapter 1—General Provisions:*

(i) § 8-4-103 Criminal, Civil, and Administrative Penalties

(3) *Arkansas Code Annotated, Title 8, Chapter 7, Subchapter 8—Regulated Substance Storage Tanks:*

(i) § 8-7-802 Department and commission—powers and duties

(ii) § 8-7-806 Penalties

(iii) § 8-7-809 Corrective actions—Orders of director

(B) The regulatory provisions include:

(1) *Arkansas Department of Pollution Control and Ecology Regulation Number 12—Storage Tank Regulation:*

(i) Chapter 2, Section 4: Access to Records

(ii) Chapter 2, Section 5: Entry and Inspection of Underground Storage Tank Facilities

(iii) Chapter 8, Section 1: Violations

(iv) Chapter 8, Section 2: Penalty Policy and Administrative Procedures

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Statutes.

(1) *Arkansas Code Annotated, Title 8, Chapter 7, Subchapter 8—Regulated Substance Storage Tanks.*

(i) § 8-7-802 Department's Powers and Duties (Insofar as it applies to aboveground storage tanks.)

(ii) § 8-7-805 License Requirement (Insofar as it applies to individuals other than UST owners and operators.)

(2) *Arkansas Code Annotated, Title 8, Chapter 7, Subchapter 9—Petroleum Storage Tank Trust Fund Act.*

(i) § 8-7-903 Rules and Regulations—Powers of department (Insofar as (c) addresses aboveground storage tanks.)

(ii) Reserved.

(B) Regulations.

(1) *Arkansas Department of Pollution Control and Ecology Regulation Number 12—Storage Tank Regulation.*

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- (i) Chapter 2, Section 6: Entry and Inspection of Aboveground Storage Tank Facilities (Insofar as it applies to aboveground storage tanks.)
- (ii) Chapter 3, Section 1: Underground and Aboveground Storage Tank Registration Fees (Insofar as it applies to aboveground storage tanks.)
- (iii) Chapter 5: Licensing of Tank Installers and Service Personnel (Insofar as it applies to individuals other than UST system owners and operators.)

Section 1: Purpose  
 Section 2: Definitions  
 Section 3: Applicability  
 Section 4: General Requirements  
 Section 5: Contractor Licensing  
 Section 6: Individual Licensing  
 Section 7: Experience Requirements  
 Section 8: Written Examination  
 Section 9: Approval of Comparable Licensing Programs  
 Section 10: Reciprocity  
 Section 11: Denial of Licenses  
 Section 12: Renewal of Licenses  
 Section 13: Duties and Obligations  
 Section 14: Department Approval of Training and Continuing Education  
 Section 15: Complaints  
 Section 16: Investigations; Enforcement; Penalties  
 Section 17: Department Actions Against Licenses.

- (iv) Chapter 6: Licensing of Tank Testers (Insofar as it applies to individuals other than UST system owners and operators.)

Section 1: Purpose  
 Section 2: Definitions  
 Section 3: Applicability  
 Section 4: General Requirements  
 Section 5: Company Licensing  
 Section 6: Individual Licensing  
 Section 7: Experience Requirements  
 Section 8: Approval of Comparable Licensing Programs  
 Section 9: Reciprocity  
 Section 10: Denial of Licenses  
 Section 11: Renewal of Licenses  
 Section 12: Duties and Obligations  
 Section 13: Department Approval of Training and Continuing Education  
 Section 14: Complaints  
 Section 15: Investigation; Enforcement; Penalties  
 Section 16: Department Actions Against Licenses

(2) *Statement of legal authority.* (i) “Attorney General’s Statement for Final Approval”, signed by the Attorney General of Arkansas on September 21, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Arkansas to EPA, September 21, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application on September 26, 1994, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application on September 26, 1994, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the Arkansas Department of Pollution Control and Ecology, signed by the EPA Regional Administrator on February 14, 1995, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[61 FR 1214, Jan. 18, 1996]

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## APPENDIX A TO PART 282—STATE REQUIREMENTS INCORPORATED BY REFERENCE IN PART 282 OF THE CODE OF FEDERAL REGULATIONS

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### Arkansas

(a) The statutory provisions include:

1. *Arkansas Code Annotated, Title 8, Chapter 7, Subchapter 8—Regulated Substance Storage Tanks:*
  - Section 8–7–801 Definitions and exceptions
  - Section 8–7–803 Regulations generally
  - Section 8–7–804 Procedures of department generally
  - Section 8–7–807 Responsibility and liability of owner
  - Section 8–7–808 Regulated Substance Storage Tank Program Fund
  - Section 8–7–810 Insurance pools
  - Section 8–7–811 Trade secrets
  - Section 8–7–812 Subchapter controlling over other laws
  - Section 8–7–813 Registration
2. *Arkansas Code Annotated, Title 8, Chapter 7, Subchapter 9—Petroleum Storage Tank Trust Fund Act:*
  - Section 8–7–901 Title
  - Section 8–7–902 Definitions
  - Section 8–7–903 Rules and Regulations—Powers of department [Except (c), which addresses above-ground storage tanks.]
  - Section 8–7–904 Advisory committee
  - Section 8–7–905 Petroleum Storage Tank Trust Fund
  - Section 8–7–906 Petroleum environmental assurance fee
  - Section 8–7–907 Payments for corrective action
  - Section 8–7–908 Third-party claims

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- Section 8–7–909 Confidential treatment of information
- (b) The regulatory provisions include:
  1. *Arkansas Department of Pollution Control and Ecology Regulation Number 12—Storage Tank Regulation:*
    - a. Chapter 1: General Provisions
      - Section 1: Purpose
      - Section 2: Authority
      - Section 3: Short Title
    - b. Chapter 2: Regulations Promulgated Under Acts 172 and 173 of 1989 and Act 65 of the Third Extraordinary Session of 1989 for Administration of the State Regulated Storage Tank Program
      - Section 1: Incorporation of Federal Regulations
      - Section 2: Arkansas Petroleum Storage Tank Trust Fund Act
      - Section 3: Definitions
    - c. Chapter 3: Fees
      - Section 1: Underground and Aboveground Storage Tank Registration Fees [Except insofar as it applies to aboveground storage tanks.]
      - Section 2: Underground Storage Tank Licensing Fees
      - Section 3: Late Payment Penalties
      - Section 4: Refusal or Failure to Pay Fees
    - d. Chapter 4: Petroleum Storage Tank Trust Fund Release Reimbursement
      - Section 1: Purpose
  - Section 2: Amount of Reimbursement
  - Section 3: Initial Fund Eligibility
  - Section 4: Loss and Restoration of Initial Fund Eligibility
  - Section 5: Corrective Action Reimbursement Procedure
  - Section 6: Reimbursement Application Review
  - Section 7: Allowable Costs
  - Section 8: Reasonable Costs
  - Section 9: Audits
  - Section 10: Deductible
  - Section 11: Third Party Claim Reimbursement Procedure
  - Section 12: Compliance
  - Section 13: Fund Availability
  - Section 14: Cost Recovery
  - e. Chapter 7: Confidentiality
    - Section 1: Confidentiality Requests
    - Section 2: Responsibility
    - Section 3: Submission Procedure
    - Section 4: Requirements for Protection
    - Section 5: Acceptability of Information
    - Section 6: Security
  - f. Chapter 9: Severability
  - g. Chapter 10: Effective Date

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